

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 443
96TH GENERAL ASSEMBLY

Reported from the Committee on Transportation, January 12, 2012, with recommendation that the Senate Committee Substitute do pass.

4277S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 302.309, 302.341, 302.700, and 577.023, RSMo, and to enact in lieu thereof five new sections relating to the regulation of motor vehicles, with penalty provisions in existing language and a contingent effective date for certain sections.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 302.309, 302.341, 302.700, and 577.023, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections
3 302.309, 302.341, 302.700, 302.768, and 577.023, to read as follows:

302.309. 1. Whenever any license is suspended pursuant to sections
2 302.302 to 302.309, the director of revenue shall return the license to the operator
3 immediately upon the termination of the period of suspension and upon
4 compliance with the requirements of chapter 303.

5 2. Any operator whose license is revoked pursuant to these sections, upon
6 the termination of the period of revocation, shall apply for a new license in the
7 manner prescribed by law.

8 3. (1) All circuit courts, the director of revenue, or a commissioner
9 operating under section 478.007 shall have jurisdiction to hear applications and
10 make eligibility determinations granting limited driving privileges. Any
11 application may be made in writing to the director of revenue and the person's
12 reasons for requesting the limited driving privilege shall be made therein.

13 (2) When any court of record having jurisdiction or the director of revenue
14 finds that an operator is required to operate a motor vehicle in connection with
15 any of the following:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 (a) [A business, occupation, or] **Driving to or from the operator's**
17 **places of** employment;

18 (b) [Seeking medical treatment for such operator;

19 (c)] Attending school or other institution of higher education;

20 [(d)] **(c)** Attending alcohol or drug treatment programs;

21 **[(e)] (d)** Seeking the required services of a certified ignition interlock
22 device provider; [or

23 (f) Any other circumstance the court or director finds would create an
24 undue hardship on the operator;]

25 the court or director may grant such limited driving privilege as the
26 circumstances of the case justify if the court or director finds undue hardship
27 would result to the individual, and while so operating a motor vehicle within the
28 restrictions and limitations of the limited driving privilege the driver shall not
29 be guilty of operating a motor vehicle without a valid license.

30 (3) An operator may make application to the proper court in the county
31 in which such operator resides or in the county in which is located the operator's
32 principal place of business or employment. Any application for a limited driving
33 privilege made to a circuit court shall name the director as a party defendant and
34 shall be served upon the director prior to the grant of any limited privilege, and
35 shall be accompanied by a copy of the applicant's driving record as certified by
36 the director. Any applicant for a limited driving privilege shall have on file with
37 the department of revenue proof of financial responsibility as required by chapter
38 303. Any application by a person who transports persons or property as classified
39 in section 302.015 may be accompanied by proof of financial responsibility as
40 required by chapter 303, but if proof of financial responsibility does not
41 accompany the application, or if the applicant does not have on file with the
42 department of revenue proof of financial responsibility, the court or the director
43 has discretion to grant the limited driving privilege to the person solely for the
44 purpose of operating a vehicle whose owner has complied with chapter 303 for
45 that vehicle, and the limited driving privilege must state such restriction. When
46 operating such vehicle under such restriction the person shall carry proof that the
47 owner has complied with chapter 303 for that vehicle.

48 (4) No limited driving privilege shall be issued to any person otherwise
49 eligible under the provisions of paragraph (a) of subdivision (6) of this subsection
50 on a license revocation resulting from a conviction under subdivision (9) of
51 subsection 1 of section 302.302, or a license denial under paragraph (a) or (b) of

52 subdivision (8) of this subsection, until the applicant has filed proof with the
53 department of revenue that any motor vehicle operated by the person is equipped
54 with a functioning, certified ignition interlock device as a required condition of
55 limited driving privilege.

56 (5) The court order or the director's grant of the limited or restricted
57 driving privilege shall indicate the termination date of the privilege, which shall
58 be not later than the end of the period of suspension or revocation. A copy of any
59 court order shall be sent by the clerk of the court to the director, and a copy shall
60 be given to the driver which shall be carried by the driver whenever such driver
61 operates a motor vehicle. The director of revenue upon granting a limited driving
62 privilege shall give a copy of the limited driving privilege to the applicant. The
63 applicant shall carry a copy of the limited driving privilege while operating a
64 motor vehicle. A conviction which results in the assessment of points pursuant
65 to section 302.302, other than a violation of a municipal stop sign ordinance
66 where no accident is involved, against a driver who is operating a vehicle
67 pursuant to a limited driving privilege terminates the privilege, as of the date the
68 points are assessed to the person's driving record. If the date of arrest is prior
69 to the issuance of the limited driving privilege, the privilege shall not be
70 terminated. Failure of the driver to maintain proof of financial responsibility, as
71 required by chapter 303, or to maintain proof of installation of a functioning,
72 certified ignition interlock device, as applicable, shall terminate the
73 privilege. The director shall notify by ordinary mail the driver whose privilege
74 is so terminated.

75 (6) Except as provided in subdivision (8) of this subsection, no person is
76 eligible to receive a limited driving privilege who at the time of application for a
77 limited driving privilege has previously been granted such a privilege within the
78 immediately preceding five years, or whose license has been suspended or revoked
79 for the following reasons:

80 (a) A conviction of violating the provisions of section 577.010 or 577.012,
81 or any similar provision of any federal or state law, or a municipal or county law
82 where the judge in such case was an attorney and the defendant was represented
83 by or waived the right to an attorney in writing, until the person has completed
84 the first thirty days of a suspension or **forty-five days of a** revocation imposed
85 pursuant to this chapter;

86 (b) A conviction of any felony in the commission of which a motor vehicle
87 was used;

88 (c) Ineligibility for a license because of the provisions of subdivision (1),
89 (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

90 (d) Because of operating a motor vehicle under the influence of narcotic
91 drugs, a controlled substance as defined in chapter 195, or having left the scene
92 of an accident as provided in section 577.060;

93 (e) Due to a revocation for the first time for failure to submit to a chemical
94 test pursuant to section 577.041 or due to a refusal to submit to a chemical test
95 in any other state, if such person has not completed the first ninety days of such
96 revocation;

97 (f) Violation more than once of the provisions of section 577.041 or a
98 similar implied consent law of any other state; or

99 (g) Due to a suspension pursuant to subsection 2 of section 302.525 and
100 who has not completed the first thirty days of such suspension, provided the
101 person is not otherwise ineligible for a limited driving privilege; or due to a
102 revocation pursuant to subsection 2 of section 302.525 if such person has not
103 completed such revocation.

104 (7) No person who possesses a commercial driver's license shall receive a
105 limited driving privilege issued for the purpose of operating a commercial motor
106 vehicle if such person's driving privilege is suspended, revoked, canceled, denied,
107 or disqualified. Nothing in this section shall prohibit the issuance of a limited
108 driving privilege for the purpose of operating a noncommercial motor vehicle
109 provided that pursuant to the provisions of this section, the applicant is not
110 otherwise ineligible for a limited driving privilege.

111 (8) (a) Provided that pursuant to the provisions of this section, the
112 applicant is not otherwise ineligible for a limited driving privilege, a circuit court
113 or the director may, in the manner prescribed in this subsection, allow a person
114 who has had such person's license to operate a motor vehicle revoked where that
115 person cannot obtain a new license for a period of ten years, as prescribed in
116 subdivision (9) of section 302.060, to apply for a limited driving privilege
117 pursuant to this subsection if such person has served at least three years of such
118 disqualification or revocation. Such person shall present evidence satisfactory to
119 the court or the director that such person has not been convicted of any offense
120 related to alcohol, controlled substances or drugs during the preceding three
121 years and that the person's habits and conduct show that the person no longer
122 poses a threat to the public safety of this state.

123 (b) Provided that pursuant to the provisions of this section, the applicant

124 is not otherwise ineligible for a limited driving privilege or convicted of
125 involuntary manslaughter while operating a motor vehicle in an intoxicated
126 condition, a circuit court or the director may, in the manner prescribed in this
127 subsection, allow a person who has had such person's license to operate a motor
128 vehicle revoked where that person cannot obtain a new license for a period of five
129 years because of two convictions of driving while intoxicated, as prescribed in
130 subdivision (10) of section 302.060, to apply for a limited driving privilege
131 pursuant to this subsection if such person has served at least two years of such
132 disqualification or revocation. Such person shall present evidence satisfactory to
133 the court or the director that such person has not been convicted of any offense
134 related to alcohol, controlled substances or drugs during the preceding two years
135 and that the person's habits and conduct show that the person no longer poses a
136 threat to the public safety of this state. Any person who is denied a license
137 permanently in this state because of an alcohol-related conviction subsequent to
138 a restoration of such person's driving privileges pursuant to subdivision (9) of
139 section 302.060 shall not be eligible for limited driving privilege pursuant to the
140 provisions of this subdivision.

141 (9) A DWI docket or court established under section 478.007 may grant
142 a limited driving privilege to a participant in or graduate of the program who
143 would otherwise be ineligible for such privilege under another provision of
144 law. The DWI docket or court shall not grant a limited driving privilege to a
145 participant during his or her initial forty-five days of participation.

146 4. Any person who has received notice of denial of a request of limited
147 driving privilege by the director of revenue may make a request for a review of
148 the director's determination in the circuit court of the county in which the person
149 resides or the county in which is located the person's principal place of business
150 or employment within thirty days of the date of mailing of the notice of
151 denial. Such review shall be based upon the records of the department of revenue
152 and other competent evidence and shall be limited to a review of whether the
153 applicant was statutorily entitled to the limited driving privilege.

154 5. The director of revenue shall promulgate rules and regulations
155 necessary to carry out the provisions of this section. Any rule or portion of a rule,
156 as that term is defined in section 536.010, that is created under the authority
157 delegated in this section shall become effective only if it complies with and is
158 subject to all of the provisions of chapter 536 and, if applicable, section
159 536.028. This section and chapter 536 are nonseverable and if any of the powers

160 vested with the general assembly pursuant to chapter 536 to review, to delay the
161 effective date or to disapprove and annul a rule are subsequently held
162 unconstitutional, then the grant of rulemaking authority and any rule proposed
163 or adopted after August 28, 2001, shall be invalid and void.

302.341. 1. If a Missouri resident charged with a moving traffic violation
2 of this state or any county or municipality of this state fails to dispose of the
3 charges of which the resident is accused through authorized prepayment of fine
4 and court costs and fails to appear on the return date or at any subsequent date
5 to which the case has been continued, or without good cause fails to pay any fine
6 or court costs assessed against the resident for any such violation within the
7 period of time specified or in such installments as approved by the court or as
8 otherwise provided by law, any court having jurisdiction over the charges shall
9 within ten days of the failure to comply inform the defendant by ordinary mail
10 at the last address shown on the court records that the court will order the
11 director of revenue to suspend the defendant's driving privileges if the charges
12 are not disposed of and fully paid within thirty days from the date of
13 mailing. Thereafter, if the defendant fails to timely act to dispose of the charges
14 and fully pay any applicable fines and court costs, the court shall notify the
15 director of revenue of such failure and of the pending charges against the
16 defendant. Upon receipt of this notification, the director shall suspend the
17 license of the driver, effective immediately, and provide notice of the suspension
18 to the driver at the last address for the driver shown on the records of the
19 department of revenue. Such suspension shall remain in effect until the court
20 with the subject pending charge requests setting aside the noncompliance
21 suspension pending final disposition, or satisfactory evidence of disposition of
22 pending charges and payment of fine and court costs, if applicable, is furnished
23 to the director by the individual. Upon proof of disposition of charges and
24 payment of fine and court costs, if applicable, and payment of the reinstatement
25 fee as set forth in section 302.304, the director shall return the license and
26 remove the suspension from the individual's driving record **if the individual**
27 **was not operating a commercial motor vehicle or a commercial driver's**
28 **license holder at the time of the offense.** The filing of financial
29 responsibility with the bureau of safety responsibility, department of revenue,
30 shall not be required as a condition of reinstatement of a driver's license
31 suspended solely under the provisions of this section.

32 2. If any city, town or village receives more than thirty-five percent of its

33 annual general operating revenue from fines and court costs for traffic violations
34 occurring on state highways, all revenues from such violations in excess of
35 thirty-five percent of the annual general operating revenue of the city, town or
36 village shall be sent to the director of the department of revenue and shall be
37 distributed annually to the schools of the county in the same manner that
38 proceeds of all penalties, forfeitures and fines collected for any breach of the
39 penal laws of the state are distributed. For the purpose of this section the words
40 "state highways" shall mean any state or federal highway, including any such
41 highway continuing through the boundaries of a city, town or village with a
42 designated street name other than the state highway number. The director of the
43 department of revenue shall set forth by rule a procedure whereby excess
44 revenues as set forth above shall be sent to the department of revenue. If any
45 city, town, or village disputes a determination that it has received excess
46 revenues required to be sent to the department of revenue, such city, town, or
47 village may submit to an annual audit by the state auditor under the authority
48 of article IV, section 13 of the Missouri Constitution. Any rule or portion of a
49 rule, as that term is defined in section 536.010, that is created under the
50 authority delegated in this section shall become effective only if it complies with
51 and is subject to all of the provisions of chapter 536 and, if applicable, section
52 536.028. This section and chapter 536 are nonseverable and if any of the powers
53 vested with the general assembly under chapter 536 to review, to delay the
54 effective date, or to disapprove and annul a rule are subsequently held
55 unconstitutional, then the grant of rulemaking authority and any rule proposed
56 or adopted after August 28, 2009, shall be invalid and void.

302.700. 1. Sections 302.700 to 302.780 may be cited as the "Uniform
2 Commercial Driver's License Act".

3 2. When used in sections 302.700 to 302.780, the following words and
4 phrases mean:

5 (1) "Alcohol", any substance containing any form of alcohol, including, but
6 not limited to, ethanol, methanol, propanol and isopropanol;

7 (2) "Alcohol concentration", the number of grams of alcohol per one
8 hundred milliliters of blood or the number of grams of alcohol per two hundred
9 ten liters of breath or the number of grams of alcohol per sixty-seven milliliters
10 of urine;

11 (3) **"CDLIS driver record", the electronic record of the individual**
12 **commercial driver's status and history stored by the state of record as**

13 **part of the Commercial Driver's License Information System (CDLIS)**
14 **established under 49 U.S.C. Section 31309, et seq.;**

15 **(4) "CDLIS motor vehicle record (CDLIS MVR)", a report**
16 **generated from the CDLIS driver record which meets the requirements**
17 **for access to CDLIS information and is provided by states to users**
18 **authorized in 49 CFR Part 384, subject to the provisions of the Driver**
19 **Privacy Protection Act, 18 U.S.C. Sections 2721 to 2725, et seq.;**

20 **(5) "Commercial driver's instruction permit", a permit issued pursuant to**
21 **section 302.720;**

22 **[(4)] (6) "Commercial driver's license", a license issued by this state to**
23 **an individual which authorizes the individual to operate a commercial motor**
24 **vehicle;**

25 **[(5)] (7) "Commercial driver's license downgrade", occurs when:**

26 **(a) A driver changes the self-certification to interstate, but**
27 **operates exclusively in transportation or operation excepted from 49**
28 **CFR Part 391, as provided in 49 CFR Part 390.3(f), 391.2, 391.68, or**
29 **398.3;**

30 **(b) A driver changes the self-certification to intrastate only, if**
31 **the driver qualifies under the state's physical qualification**
32 **requirements for intrastate only;**

33 **(c) A driver changes the self-certification to intrastate, but**
34 **operating exclusively in transportation or operations excepted from all**
35 **or part of the state driver qualification requirements; or**

36 **(d) The state removes the commercial driver's license privilege**
37 **from the driver's license;**

38 **(8) "Commercial driver's license information system", the information**
39 **system established pursuant to the Commercial Motor Vehicle Safety Act of 1986**
40 **(Title XII of Pub. Law 99-570) to serve as a clearinghouse for locating**
41 **information related to the licensing and identification of commercial motor vehicle**
42 **drivers;**

43 **[(6)] (9) "Commercial motor vehicle", a motor vehicle designed or used to**
44 **transport passengers or property:**

45 **(a) If the vehicle has a gross combination weight rating of twenty-six**
46 **thousand one or more pounds inclusive of a towed unit which has a gross vehicle**
47 **weight rating of ten thousand one pounds or more;**

48 **(b) If the vehicle has a gross vehicle weight rating of twenty-six thousand**

49 one or more pounds or such lesser rating as determined by federal regulation;

50 (c) If the vehicle is designed to transport sixteen or more passengers,
51 including the driver; or

52 (d) If the vehicle is transporting hazardous materials and is required to
53 be placarded under the Hazardous Materials Transportation Act (46 U.S.C. 1801,
54 et seq.);

55 [(7)] (10) "Controlled substance", any substance so classified under
56 Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), and includes
57 all substances listed in schedules I through V of 21 CFR part 1308, as they may
58 be revised from time to time;

59 [(8)] (11) "Conviction", an unvacated adjudication of guilt, including
60 pleas of guilt and nolo contendere, or a determination that a person has violated
61 or failed to comply with the law in a court of original jurisdiction or an authorized
62 administrative proceeding, an unvacated forfeiture of bail or collateral deposited
63 to secure the person's appearance in court, the payment of a fine or court cost, or
64 violation of a condition of release without bail, regardless of whether the penalty
65 is rebated, suspended or prorated, including an offense for failure to appear or
66 pay;

67 [(9)] (12) "Director", the director of revenue or his authorized
68 representative;

69 [(10)] (13) "Disqualification", any of the following three actions:

70 (a) The suspension, revocation, or cancellation of a commercial driver's
71 license;

72 (b) Any withdrawal of a person's privileges to drive a commercial motor
73 vehicle by a state, **Canada, or Mexico** as the result of a violation of federal,
74 state, county, municipal, or local law relating to motor vehicle traffic control or
75 violations committed through the operation of motor vehicles, other than parking,
76 vehicle weight, or vehicle defect violations;

77 (c) A determination by the Federal Motor Carrier Safety Administration
78 that a person is not qualified to operate a commercial motor vehicle under 49
79 CFR Part 383.52 or Part 391;

80 [(11)] (14) "Drive", to drive, operate or be in physical control of a
81 commercial motor vehicle;

82 [(12)] (15) "Driver", any person who drives, operates, or is in physical
83 control of a motor vehicle, or who is required to hold a commercial driver's
84 license;

85 **(16) "Driver applicant", an individual who applies to obtain,**
86 **transfer, upgrade, or renew a commercial driver's license in this state;**

87 **[(13)] (17) "Driving under the influence of alcohol", the commission of**
88 **any one or more of the following acts:**

89 (a) Driving a commercial motor vehicle with the alcohol concentration of
90 four one-hundredths of a percent or more as prescribed by the secretary or such
91 other alcohol concentration as may be later determined by the secretary by
92 regulation;

93 (b) Driving a commercial or noncommercial motor vehicle while
94 intoxicated in violation of any federal or state law, or in violation of a county or
95 municipal ordinance;

96 (c) Driving a commercial or noncommercial motor vehicle with excessive
97 blood alcohol content in violation of any federal or state law, or in violation of a
98 county or municipal ordinance;

99 (d) Refusing to submit to a chemical test in violation of section 577.041,
100 section 302.750, any federal or state law, or a county or municipal ordinance; or

101 (e) Having any state, county or municipal alcohol-related enforcement
102 contact, as defined in subsection 3 of section 302.525; provided that any
103 suspension or revocation pursuant to section 302.505, committed in a
104 noncommercial motor vehicle by an individual twenty-one years of age or older
105 shall have been committed by the person with an alcohol concentration of at least
106 eight-hundredths of one percent or more, or in the case of an individual who is
107 less than twenty-one years of age, shall have been committed by the person with
108 an alcohol concentration of at least two-hundredths of one percent or more, and
109 if committed in a commercial motor vehicle, a concentration of four-hundredths
110 of one percent or more;

111 **[(14)] (18) "Driving under the influence of a controlled substance", the**
112 **commission of any one or more of the following acts in a commercial or**
113 **noncommercial motor vehicle:**

114 (a) Driving a commercial or noncommercial motor vehicle while under the
115 influence of any substance so classified under Section 102(6) of the Controlled
116 Substances Act (21 U.S.C. 802(6)), including any substance listed in schedules I
117 through V of 21 CFR Part 1308, as they may be revised from time to time;

118 (b) Driving a commercial or noncommercial motor vehicle while in a
119 drugged condition in violation of any federal or state law or in violation of a
120 county or municipal ordinance; or

121 (c) Refusing to submit to a chemical test in violation of section 577.041,
122 section 302.750, any federal or state law, or a county or municipal ordinance;

123 [(15)] **(19)** "Employer", any person, including the United States, a state,
124 or a political subdivision of a state, who owns or leases a commercial motor
125 vehicle or assigns a driver to operate such a vehicle;

126 **(20) "Endorsement", an authorization on an individual's**
127 **commercial driver's license permitting the individual to operate certain**
128 **types of commercial motor vehicles;**

129 [(16)] **(21)** "Farm vehicle", a commercial motor vehicle controlled and
130 operated by a farmer used exclusively for the transportation of agricultural
131 products, farm machinery, farm supplies, or a combination of these, within one
132 hundred fifty miles of the farm, other than one which requires placarding for
133 hazardous materials as defined in this section, or used in the operation of a
134 common or contract motor carrier, except that a farm vehicle shall not be a
135 commercial motor vehicle when the total combined gross weight rating does not
136 exceed twenty-six thousand one pounds when transporting fertilizers as defined
137 in subdivision (21) of this subsection;

138 [(17)] **(22)** "Fatality", the death of a person as a result of a motor vehicle
139 accident;

140 [(18)] **(23)** "Felony", any offense under state or federal law that is
141 punishable by death or imprisonment for a term exceeding one year;

142 **(24) "Foreign", outside the United States and the District of**
143 **Columbia;**

144 [(19)] **(25)** "Gross combination weight rating" or "GCWR", the value
145 specified by the manufacturer as the loaded weight of a combination (articulated)
146 vehicle.

147 In the absence of a value specified by the manufacturer, GCWR will be
148 determined by adding the GVWR of the power unit and the total weight of the
149 towed unit and any load thereon;

150 [(20)] **(26)** "Gross vehicle weight rating" or "GVWR", the value specified
151 by the manufacturer as the loaded weight of a single vehicle;

152 [(21)] **(27)** "Hazardous materials", any material that has been designated
153 as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart
154 F of CFR Part 172 or any quantity of a material listed as a select agent or toxin
155 in 42 CFR Part 73. Fertilizers, including but not limited to ammonium nitrate,
156 phosphate, nitrogen, anhydrous ammonia, lime, potash, motor fuel or special fuel,

157 shall not be considered hazardous materials when transported by a farm vehicle
158 provided all other provisions of this definition are followed;

159 [(22)] **(28)** "Imminent hazard", the existence of a condition that presents
160 a substantial likelihood that death, serious illness, severe personal injury, or a
161 substantial endangerment to health, property, or the environment may occur
162 before the reasonably foreseeable completion date of a formal proceeding begins
163 to lessen the risk of that death, illness, injury, or endangerment;

164 [(23)] **(29)** "Issuance", the initial licensure, license transfers, license
165 renewals, and license upgrades;

166 **(30) "Medical examiner", a person who is licensed, certified, or**
167 **registered, in accordance with applicable state laws and regulations,**
168 **to perform physical examinations. The term includes, but is not limited**
169 **to, doctors of medicine, doctors of osteopathy, physician assistants,**
170 **advanced practice nurses, and doctors of chiropractic;**

171 **(31) "Medical variance", when a driver has received one of the**
172 **following that allows the driver to be issued a medical certificate:**

173 **(a) An exemption letter permitting operation of a commercial**
174 **motor vehicle under 49 CFR Part 381, Subpart C or 49 CFR Part 391.64;**

175 **(b) A skill performance evaluation certificate permitting**
176 **operation of a commercial motor vehicle under 49 CFR Part 391.49;**

177 [(24)] **(32)** "Motor vehicle", any self-propelled vehicle not operated
178 exclusively upon tracks;

179 [(25)] **(33)** "Noncommercial motor vehicle", a motor vehicle or
180 combination of motor vehicles not defined by the term "commercial motor vehicle"
181 in this section;

182 [(26)] **(34)** "Out of service", a temporary prohibition against the operation
183 of a commercial motor vehicle by a particular driver, or the operation of a
184 particular commercial motor vehicle, or the operation of a particular motor
185 carrier;

186 [(27)] **(35)** "Out-of-service order", a declaration by [the Federal Highway
187 Administration, or any] **an** authorized enforcement officer of a federal, state,
188 [Commonwealth of Puerto Rico,] Canadian, Mexican or any local jurisdiction, that
189 a driver, or a commercial motor vehicle, or a motor carrier operation, is out of
190 service **under 49 CFR Part 386.72, 392.5, 392.9a, 395.13, or 396.9, or**
191 **comparable laws, or the North American Standard Out-of-Service**
192 **Criteria;**

193 [(28)] **(36)** "School bus", a commercial motor vehicle used to transport
194 preprimary, primary, or secondary school students from home to school, from
195 school to home, or to and from school-sponsored events. School bus does not
196 include a bus used as a common carrier as defined by the Secretary;

197 [(29)] **(37)** "Secretary", the Secretary of Transportation of the United
198 States;

199 [(30)] **(38)** "Serious traffic violation", driving a commercial motor vehicle
200 in such a manner that the driver receives a conviction for the following offenses
201 or driving a noncommercial motor vehicle when the driver receives a conviction
202 for the following offenses and the conviction results in the suspension or
203 revocation of the driver's license or noncommercial motor vehicle driving
204 privilege:

205 (a) Excessive speeding, as defined by the Secretary by regulation;

206 (b) Careless, reckless or imprudent driving which includes, but shall not
207 be limited to, any violation of section 304.016, any violation of section 304.010,
208 or any other violation of federal or state law, or any county or municipal
209 ordinance while driving a commercial motor vehicle in a willful or wanton
210 disregard for the safety of persons or property, or improper or erratic traffic lane
211 changes, or following the vehicle ahead too closely, but shall not include careless
212 and imprudent driving by excessive speed;

213 (c) A violation of any federal or state law or county or municipal ordinance
214 regulating the operation of motor vehicles arising out of an accident or collision
215 which resulted in death to any person, other than a parking violation;

216 (d) Driving a commercial motor vehicle without obtaining a commercial
217 driver's license in violation of any federal or state or county or municipal
218 ordinance;

219 (e) Driving a commercial motor vehicle without a commercial driver's
220 license in the driver's possession in violation of any federal or state or county or
221 municipal ordinance. Any individual who provides proof to the court which has
222 jurisdiction over the issued citation that the individual held a valid commercial
223 driver's license on the date that the citation was issued shall not be guilty of this
224 offense;

225 (f) Driving a commercial motor vehicle without the proper commercial
226 driver's license class or endorsement for the specific vehicle group being operated
227 or for the passengers or type of cargo being transported in violation of any federal
228 or state law or county or municipal ordinance; or

229 (g) Any other violation of a federal or state law or county or municipal
230 ordinance regulating the operation of motor vehicles, other than a parking
231 violation, as prescribed by the secretary by regulation;

232 [(31)] (39) "State", a state[, territory or possession] of the United States[,
233 the District of Columbia, the Commonwealth of Puerto Rico, Mexico, and any
234 province of Canada];

235 [(32)] (40) "United States", the fifty states and the District of Columbia.

302.768. 1. Any applicant for a commercial driver's license or
2 commercial driver's instruction permit shall comply with the Federal
3 Motor Carrier Safety Administration application requirements of 49
4 CFR Part 383.71 by certifying to one of the following applicable
5 statements relating to federal and state driver qualification rules:

6 (1) Nonexcepted interstate: Certifies the applicant is a driver
7 operating or expecting to operate in interstate or foreign commerce, or
8 is otherwise subject to and meets requirements of 49 CFR Part 391 and
9 is required to obtain a medical examiner's certificate as defined in 49
10 CFR Part 391.45;

11 (2) Excepted interstate: Certifies the applicant is a driver
12 operating or expecting to operate entirely in interstate commerce that
13 is not subject to Part 391 and is subject to Missouri driver
14 qualifications and not required to obtain a medical examiner's
15 certificate;

16 (3) Nonexcepted intrastate: Certifies the applicant is a driver
17 operating only in intrastate commerce and is subject to Missouri driver
18 qualifications;

19 (4) Excepted intrastate: Certifies the applicant operates or
20 expects to operate only in intrastate commerce, and engaging only in
21 operations excepted from all parts of the Missouri driver qualification
22 requirements.

23 2. Any applicant who cannot meet certification requirements
24 under one of the categories defined in subsection 1 of this section shall
25 be denied issuance of a commercial driver's license or commercial
26 driver's instruction permit.

27 3. An applicant certifying to operation in nonexcepted interstate
28 or nonexcepted intrastate commerce shall provide the state with an
29 original or copy of a current medical examiners certificate or a medical
30 examiners certificate accompanied by a medical variance or

31 waiver. The state shall retain the original or copy of the
32 documentation of physical qualification for a minimum of three years
33 beyond the date the certificate was issued.

34 4. Applicants certifying to operation in nonexcepted interstate
35 commerce or nonexcepted intrastate commerce shall provide an
36 updated medical certificate or variance documents to maintain a
37 certified status during the term of the commercial driver's license or
38 commercial driver's instruction permit in order to retain commercial
39 privileges.

40 5. The director shall post the medical examiners certificate of
41 information, medical variance if applicable, and certification status to
42 the Missouri driver record within ten calendar days and such
43 information will become part of the CDLIS driver record.

44 6. Applicants certifying to operation in nonexcepted interstate
45 commerce or nonexcepted intrastate commerce who fail to provide or
46 maintain a current medical examiners certificate, or if the state has
47 received notice of a medical variance or waiver expiring or being
48 rescinded, the state shall, within ten calendar days, update the driver's
49 medical certification status to "not certified". The state shall notify the
50 driver of the change in certification status and require the driver to
51 annually comply with requirements for a commercial driver's license
52 downgrade within sixty days of notice.

53 7. The department of revenue may, by rule, establish the cost and
54 criteria for submission of updated medical certification status
55 information as required under this section.

56 8. Any person who falsifies any information in an application for
57 or update of medical certification status information for a commercial
58 driver's license shall not be licensed to operate a commercial motor
59 vehicle, or the person's commercial driver's license shall be canceled
60 for a period of one year after the director discovers such falsification.

61 9. The director may promulgate rules and regulations necessary
62 to administer and enforce this section. Any rule or portion of a rule,
63 as that term is defined in section 536.010, that is created under the
64 authority delegated in this section shall become effective only if it
65 complies with and is subject to all of the provisions of chapter 536 and,
66 if applicable, section 536.028. This section and chapter 536 are
67 nonseverable and if any of the powers vested with the general assembly

68 **pursuant to chapter 536 to review, to delay the effective date, or to**
69 **disapprove and annul a rule are subsequently held unconstitutional,**
70 **then the grant of rulemaking authority and any rule proposed or**
71 **adopted after August 28, 2011, shall be invalid and void.**

577.023. 1. For purposes of this section, unless the context clearly
2 indicates otherwise:

3 (1) An "aggravated offender" is a person who:

4 (a) Has pleaded guilty to or has been found guilty of three or more
5 intoxication-related traffic offenses; or

6 (b) Has pleaded guilty to or has been found guilty of one or more
7 intoxication-related traffic offense and, in addition, any of the following:
8 involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section
9 565.024; murder in the second degree under section 565.021, where the
10 underlying felony is an intoxication-related traffic offense; or assault in the
11 second degree under subdivision (4) of subsection 1 of section 565.060; or assault
12 of a law enforcement officer in the second degree under subdivision (4) of
13 subsection 1 of section 565.082;

14 (2) A "chronic offender" is:

15 (a) A person who has pleaded guilty to or has been found guilty of four or
16 more intoxication-related traffic offenses; or

17 (b) A person who has pleaded guilty to or has been found guilty of, on two
18 or more separate occasions, any combination of the following: involuntary
19 manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024;
20 murder in the second degree under section 565.021, where the underlying felony
21 is an intoxication-related traffic offense; assault in the second degree under
22 subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement
23 officer in the second degree under subdivision (4) of subsection 1 of section
24 565.082; or

25 (c) A person who has pleaded guilty to or has been found guilty of two or
26 more intoxication-related traffic offenses and, in addition, any of the following:
27 involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section
28 565.024; murder in the second degree under section 565.021, where the
29 underlying felony is an intoxication-related traffic offense; assault in the second
30 degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law
31 enforcement officer in the second degree under subdivision (4) of subsection 1 of
32 section 565.082;

33 (3) "Continuous alcohol monitoring", automatically testing breath, blood,
34 or transdermal alcohol concentration levels and tampering attempts at least once
35 every hour, regardless of the location of the person who is being monitored, and
36 regularly transmitting the data. Continuous alcohol monitoring shall be
37 considered an electronic monitoring service under subsection 3 of section 217.690;

38 (4) An "intoxication-related traffic offense" is driving while intoxicated,
39 driving with excessive blood alcohol content, involuntary manslaughter pursuant
40 to subdivision (2) or (3) of subsection 1 of section 565.024, murder in the second
41 degree under section 565.021, where the underlying felony is an
42 intoxication-related traffic offense, assault in the second degree pursuant to
43 subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement
44 officer in the second degree pursuant to subdivision (4) of subsection 1 of section
45 565.082, or driving under the influence of alcohol or drugs in violation of state
46 law or a county or municipal ordinance;

47 (5) A "persistent offender" is one of the following:

48 (a) A person who has pleaded guilty to or has been found guilty of two or
49 more intoxication-related traffic offenses;

50 (b) A person who has pleaded guilty to or has been found guilty of
51 involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of
52 section 565.024, assault in the second degree pursuant to subdivision (4) of
53 subsection 1 of section 565.060, assault of a law enforcement officer in the second
54 degree pursuant to subdivision (4) of subsection 1 of section 565.082; and

55 (6) A "prior offender" is a person who has pleaded guilty to or has been
56 found guilty of one intoxication-related traffic offense, where such prior offense
57 occurred within five years of the occurrence of the intoxication-related traffic
58 offense for which the person is charged.

59 2. Any person who pleads guilty to or is found guilty of a violation of
60 section 577.010 or 577.012 who is alleged and proved to be a prior offender shall
61 be guilty of a class A misdemeanor.

62 3. Any person who pleads guilty to or is found guilty of a violation of
63 section 577.010 or 577.012 who is alleged and proved to be a persistent offender
64 shall be guilty of a class D felony.

65 4. Any person who pleads guilty to or is found guilty of a violation of
66 section 577.010 or section 577.012 who is alleged and proved to be an aggravated
67 offender shall be guilty of a class C felony.

68 5. Any person who pleads guilty to or is found guilty of a violation of

69 section 577.010 or section 577.012 who is alleged and proved to be a chronic
70 offender shall be guilty of a class B felony.

71 6. No state, county, or municipal court shall suspend the imposition of
72 sentence as to a prior offender, persistent offender, aggravated offender, or
73 chronic offender under this section nor sentence such person to pay a fine in lieu
74 of a term of imprisonment, section 557.011 to the contrary notwithstanding.

75 (1) No prior offender shall be eligible for parole or probation until he or
76 she has served a minimum of ten days imprisonment:

77 (a) Unless as a condition of such parole or probation such person performs
78 at least thirty days involving at least two hundred forty hours of community
79 service under the supervision of the court in those jurisdictions which have a
80 recognized program for community service; or

81 (b) The offender participates in and successfully completes a program
82 established pursuant to section 478.007 or other court-ordered treatment
83 program, if available, **and as part of either program, the offender**
84 **performs at least thirty days of community service under the**
85 **supervision of the court.**

86 (2) No persistent offender shall be eligible for parole or probation until he
87 or she has served a minimum of thirty days imprisonment:

88 (a) Unless as a condition of such parole or probation such person performs
89 at least sixty days involving at least four hundred eighty hours of community
90 service under the supervision of the court; or

91 (b) The offender participates in and successfully completes a program
92 established pursuant to section 478.007 or other court-ordered treatment
93 program, if available, **and as part of either program, the offender**
94 **performs at least sixty days of community service under the**
95 **supervision of the court.**

96 (3) No aggravated offender shall be eligible for parole or probation until
97 he or she has served a minimum of sixty days imprisonment.

98 (4) No chronic offender shall be eligible for parole or probation until he
99 or she has served a minimum of two years imprisonment. In addition to any
100 other terms or conditions of probation, the court shall consider, as a condition of
101 probation for any person who pleads guilty to or is found guilty of an
102 intoxication-related traffic offense, requiring the offender to abstain from
103 consuming or using alcohol or any products containing alcohol as demonstrated
104 by continuous alcohol monitoring or by verifiable breath alcohol testing performed

105 a minimum of four times per day as scheduled by the court for such duration as
106 determined by the court, but not less than ninety days. The court may, in
107 addition to imposing any other fine, costs, or assessments provided by law,
108 require the offender to bear any costs associated with continuous alcohol
109 monitoring or verifiable breath alcohol testing.

110 7. The state, county, or municipal court shall find the defendant to be a
111 prior offender, persistent offender, aggravated offender, or chronic offender if:

112 (1) The indictment or information, original or amended, or the information
113 in lieu of an indictment pleads all essential facts warranting a finding that the
114 defendant is a prior offender or persistent offender; and

115 (2) Evidence is introduced that establishes sufficient facts pleaded to
116 warrant a finding beyond a reasonable doubt the defendant is a prior offender,
117 persistent offender, aggravated offender, or chronic offender; and

118 (3) The court makes findings of fact that warrant a finding beyond a
119 reasonable doubt by the court that the defendant is a prior offender, persistent
120 offender, aggravated offender, or chronic offender.

121 8. In a jury trial, the facts shall be pleaded, established and found prior
122 to submission to the jury outside of its hearing.

123 9. In a trial without a jury or upon a plea of guilty, the court may defer
124 the proof in findings of such facts to a later time, but prior to sentencing.

125 10. The defendant shall be accorded full rights of confrontation and
126 cross-examination, with the opportunity to present evidence, at such hearings.

127 11. The defendant may waive proof of the facts alleged.

128 12. Nothing in this section shall prevent the use of presentence
129 investigations or commitments.

130 13. At the sentencing hearing both the state, county, or municipality and
131 the defendant shall be permitted to present additional information bearing on the
132 issue of sentence.

133 14. The pleas or findings of guilt shall be prior to the date of commission
134 of the present offense.

135 15. The court shall not instruct the jury as to the range of punishment or
136 allow the jury, upon a finding of guilt, to assess and declare the punishment as
137 part of its verdict in cases of prior offenders, persistent offenders, aggravated
138 offenders, or chronic offenders.

139 16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an
140 intoxication-related traffic offense shall be heard and determined by the trial

141 court out of the hearing of the jury prior to the submission of the case to the jury,
142 and shall include but not be limited to evidence received by a search of the
143 records of the Missouri uniform law enforcement system, including criminal
144 history records from the central repository or records from the driving while
145 intoxicated tracking system (DWITS) maintained by the Missouri state highway
146 patrol, or the certified driving record maintained by the Missouri department of
147 revenue. After hearing the evidence, the court shall enter its findings thereon.
148 A plea of guilty or a finding of guilt followed by incarceration, a fine, a suspended
149 imposition of sentence, suspended execution of sentence, probation or parole or
150 any combination thereof in any intoxication-related traffic offense in a state,
151 county or municipal court or any combination thereof, shall be treated as a prior
152 plea of guilty or finding of guilt for purposes of this section.

Section B. The repeal and reenactment of section 302.700 and the
2 enactment of section 302.768 of this act shall become effective on the date the
3 director of the department of revenue begins accepting commercial driver license
4 medical certifications under sections 302.700 and 302.768, or on May 1, 2013,
5 whichever occurs first. If the director of revenue begins accepting commercial
6 driver license medical certifications under sections 302.700 and 302.768 prior to
7 May 1, 2013, the director of the department of revenue shall notify the revisor of
8 statutes of such fact.

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